

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control No. 892 Department or Agency Office of State Treasurer
Chapter No. 892-2-1
Chapter Title: Unclaimed Property Division
X New Amend X Repeal Adopt by Reference

Would the absence of the proposed chapter significantly harm or endanger the public health, welfare, or safety? No

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? Yes

Is there another, less restrictive method of regulation available that could adequately protect the public? No

Does the proposed chapter have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? No

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? No

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? Yes

Does the proposed rule have an economic impact? No

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975

Certification of Authorized Official

I certify that the attached proposed chapter has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of certifying officer Daria Story
Date 10-10-14

REC'D & FILED

OCT 10 2014

LEGISLATIVE REF SERVICE

(DATE FILED)
(STAMP)

Office of State Treasurer
Unclaimed Property Division

NOTICE OF INTENDED ACTION

AGENCY NAME: Office of State Treasurer

CHAPTER NO. & TITLE: 892-2-1 Unclaimed Property Division

INTENDED ACTION:

The Office of State Treasurer proposes to repeal existing Chapter 892-2-1, Unclaimed Property Division, and adopt a new Chapter 892-2-1, Unclaimed Property Division.

SUBSTANCE OF PROPOSED ACTION:

To repeal existing Chapter 892-2-1, Unclaimed Property Division, that is outdated due to legislative revisions.

To adopt a new Chapter 892-2-1, Unclaimed Property Division, that establishes current up-to-date general instructions and guidelines for the administration of the program.

TIME, PLACE, MANNER OF PRESENTING VIEWS:

By personal appearance, mail, facsimile or electronic mail received no later than 3:00 pm CST on December 8, 2014 to: Office of State Treasurer, State Capitol S-106, 600 Dexter Avenue, Montgomery, AL 36104; telephone 334-242-7501; facsimile 334-242-7592; or email daria.story@treasury.alabama.gov

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

December 8, 2014 at 3:00 PM CST at the Office of State Treasurer, State Capitol Building, Room S-106, 600 Dexter Avenue, Montgomery, AL 36104

CONTACT PERSON AT AGENCY:

Daria Story, Assistant State Treasurer, 334-242-7506, daria.story@treasury.alabama.gov


Daria Story
Assistant State Treasurer

STATE TREASURER'S OFFICE
ADMINISTRATIVE CODE

CHAPTER 892-2-1 REPEALED
UNCLAIMED PROPERTY DIVISION

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892-2-1-.01 Definitions.

(a) The following terms are defined as follows for purposes of these regulations:

(1) "Abandoned or Unclaimed Property" means any property which is Presumed Abandoned under Sections 35-12-20 through and including 35-12-50, Code of Ala. 1975, as amended.

(2) "Contents" means any and all property found within a safe deposit box presumed abandoned and opened accordingly under Section 35-12-22(4), Code of Ala. 1975, as amended.

(3) "Holder" means anyone in physical possession of Abandoned or Unclaimed Property. Agents, independent contractors, or other representatives of Holders are not Holders unless court-appointed.

(4) "Holding Period" means the period of time required by the applicable code section within the Act which must elapse before the property is presumed abandoned. For example, the "Holding Period" for miscellaneous personal property, prescribed in Section 35-12-29, Code of Ala. 1975, as amended, is five years after it becomes payable or distributable.

- (5) "Inaccurate or Incomplete Report or Remittance" includes those with the following or any other deficiencies:
- (a) reports which are out of balance;
 - (b) reports which lack vital or pertinent information or appropriate detail;
 - (c) reports presented in an incorrect format;
 - (d) remittances of amounts less than the property reported;
 - (e) reports which do not include remittable interest, dividends, stock splits or underlying securities; or,
 - (f) reports or remittances made out to improper payee, or account or security designee.
- (6) "Owner" means the Owner of Abandoned or Unclaimed Property. An Owner's legal heirs and court-appointed representatives are also considered Owners. Agents, independent contractors, or other representatives of Owners are not Owners unless court-appointed.
- (7) "Presumed Abandoned" - Property is "Presumed Abandoned" at the point in time specified for the presumed abandonment of that specified type of property set forth in Sections 35-12-20 through and including 35-12-50, Code of Ala. 1975, as amended.
- (8) "Safekeeping Items" means any and all property subject to the Uniform Act as amended and includes Contents, held by a Holder in safekeeping until delivery to the State Treasurer's Office can be accomplished.
- (9) "State Treasurer" means the Alabama State Treasurer, or the designee of the Alabama State Treasurer.
- (10) "State Treasurer's Office" means the Office of the Alabama State Treasurer.
- (11) "Uniform Act" means Uniform Disposition of Unclaimed Property Act, Sections 35-12-20, et seq., Code of Ala. 1975, as amended.

(12) "Value" means monetary worth. A formal appraisal is not required to establish the Value of property under the Uniform Act. Instead, the

Holder's reasonable estimate is sufficient for determining Value under the Uniform Act.

Author: Jonathan H. Cooner, General Counsel, State Treasurer's Office

Statutory Authority: Code of Ala. 1975, §35-12-20, et seq.

History: **New Rule:** Filed January 29, 1997; effective March 5, 1997.

892-2-1.02 Due Diligence - Written Notice To Owners.

(a) No less than sixty days before the report due date, Holders will review all records to identify property presumed abandoned as specified under the Uniform Act.

(b) Once property is identified as Presumed Abandoned, the law requires that the Holder exercise due diligence to try to ascertain the whereabouts of the Owner.

(c) If the value of the property \$10 or more but less than \$500, the Holder must at least mail a first class letter at least thirty days before filing the report to the Owner at the Owner's last known address. The same minimum action is required in the case of property valued more than \$500, except the letter must be a certified letter. These are the minimum requirements that a Holder must satisfy to perform "due diligence" within the meaning of Section 35-12-31(e) Code of Ala. 1975, as amended.

(d) The letter referred to in paragraph (c). above must include the following information:

(1) a response form or section for the Owner to return to the Holder;

(2) identification and description of the property, e.g., amount of money, securities, safekeeping items;

(3) a statement that if the status of the property continues to be dormant, it may result in the property being reported and placed in the custody of the State Treasurer; and

(4) a statement that the Owner must respond to the notice before the report due date or deadline. The Holder may

establish a deadline that will allow the Holder time to respond to the Owner before filing the report.

(e) Non-Return of the letter by the post office will not qualify as contact with the Owner and is insufficient to establish that the Holder has knowledge of the existence or whereabouts of the Owner. The Owner must respond to the notice by completing and returning the response portion of the letter.

(f) The Holder must document any efforts made to notify the Owner, or retain any returned mail or other proof of mailing. The State Treasurer may examine the Holder's records to verify the Holder's compliance in attempting to find Owners.

(g) If the Holder has failed to perform due diligence, the Holder may be subject to penalties as specified under the Uniform Act.

Author: Jonathan H. Cooner, General Counsel, State Treasurer's Office

Statutory Authority: Code of Ala. 1975, §§35-12-31, 35-12-43, 35-12-45, and 35-12-46.

History: New Rule: Filed January 29, 1997; effective March 5, 1997.

892-2-1-.03 **Report Of Abandoned Property.** All Holders shall file a positive or negative (zero) report with the State Treasurer's office. Negative reports are to be filed by all Holders with gross annual income in excess of \$500,000 per year.

Author: Jonathan H. Cooner, General Counsel, State Treasurer's Office

Statutory Authority: Code of Ala. 1975, §§35-12-31 and 35-12-46.

History: New Rule: Filed January 29, 1997; effective March 5, 1997.

892-2-1-.04 **Format Or Form Of Reports.**

(a) All Holders must report in the format prescribed by the State Treasurer.

(b) A Holder must file the unclaimed property report required under the Uniform Act on one of the following:

(1) a form provided by the State Treasurer's Office;

(2) a computer printout as approved and instructed by the State Treasurer's Office; or

(3) a magnetic medium as approved and instructed by the State Treasurer's Office.

Author: Jonathan H. Cooner, General Counsel, State Treasurer's Office

Statutory Authority: Code of Ala. 1975, §§35-12-31 and 35-12-46.

History: **New Rule:** Filed January 29, 1997; effective March 5, 1997.

892-2-1-.05 Incomplete Or Inaccurate Report Or Remittance.

(a) Any Incomplete or Inaccurate Report or Remittance which is submitted to the State Treasurer's Office may be returned to the submitting Holder for correction.

(b) If an Incomplete or Inaccurate Report or Remittance is returned to the Holder for correction, the Holder shall submit a corrected, accurate, and complete report or remittance to the State Treasurer's Office within 20 calendar days after the return of the original report or remittance to the Holder. If the Holder fails to do so, the Holder may be subject to penalties specified in the Uniform Act, and such failure shall be sufficient ground for examination of the Holder.

(c) This regulation does not affect any criminal or civil penalty imposed upon a Holder pursuant to Section 35-12-46, Code of Ala. 1975, as amended, as a result of the Holder's willful failure to perform a duty or breach of a confidentiality provision of the Uniform Act.

Author: Jonathan H. Cooner, General Counsel, State Treasurer's Office

Statutory Authority: Code of Ala. 1975, §§35-12-31, 35-12-43, 35-12-45 and 35-12-46.

History: **New Rule:** Filed January 29, 1997; effective March 5, 1997.

892-2-1-.06 Report Information.

(a) Each report of Unclaimed Property to the State Treasurer shall be in the format approved by the State Treasurer as is specified under regulation 892-2-1-.04. At a minimum, the report shall include the following:

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- (1) Holder information, including the following:
 - (a) Holder's legal name and any other legal name if changed while the Holder has held the property, complete address and telephone number;
 - (b) Holder's federal tax identification number;
 - (c) contact person's name and telephone number;
 - (d) state and date of incorporation/charter;
 - (e) standard industrial classification code; and,
 - (f) previous Holder information, if any, and
 - (g) Holder's primary business information (i.e., sales volume, number of employees, assets).
- (2) Owner report information, including the following:
 - (a) Owner's complete/full name or business name, last-known address, and social security number or federal employer identification number if in the Holder's possession;
 - (b) if applicable, Co-Owner's complete/full name or business name, last-known address, social security number or federal employer identification number if in the Holder's possession, and description of Co-Owner's interest in the property (e.g., joint tenancy with rights of survivorship, custodian, guardian, executor, administrator, beneficiary);
 - (c) date of last transaction, or beginning and ending dates of periodic payments (i.e., the date of last deposit or withdrawal, mail was first returned, or the property became payable, redeemable, or returnable, for example the issue date of a check);
 - (d) full description of the type of property that is being reported, e.g, type of property, and identification numbers (such as account and check numbers);
 - (e) amount due the Owner at the beginning of the holding period,
 - (f) deduction amount and type of deduction taken,
 - (g) amount of cash remitted, and amount of shares remitted; and,

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(h) if reporting safekeeping items, a complete inventory listing of contents including quantity and description and date box was drilled,

(3) and other information (i.e., any other information the Treasurer deems as important in identifying the Holder's compliance with the Uniform Act and/or finding the rightful Owner or heir.)

Author: Jonathan H. Cooner, General Counsel, State Treasurer's Office

Statutory Authority: Code of Ala. 1975, §§35-12-31 and 35-12-46.

History: New Rule: Filed January 29, 1997; effective March 5, 1997.

892-2-1-.07

Aggregate Reporting.

(a) Holders are not required to report Owner detail information (e.g., Owner name, and address) for items less than the aggregate level as defined in Section 35-12-31(b), Code of Ala. 1975, as amended. However, if the Holder does not include the Owner detail information, the Holder will remain responsible for the accurate detail, i.e., what Owners are included in the aggregate amount.

(b) Holders who are reporting property subject to periodic distribution (e.g., dividends) shall not aggregate the Owner information. Instead, the Holder must provide detailed information on each separate Owner. Such periodic-distribution property may be accumulated for each separate Owner (and Co-Owner if applicable) and the total for that Owner reported.

Author: Jonathan H. Cooner, Unclaimed Property Administrator, State Treasurer's Office

Statutory Authority: Code of Alabama 1975, §§35-12-31 and 35-12-46.

History: New Rule: Filed January 29, 1997; effective March 5, 1997.

892-2-1-.08
Items.

Inventory, Report, And Remittance Of Safekeeping

(a) Inventory and Packaging Safe Deposit Box Contents

(1) When a bank, financial organization or business association ("Institution"), other than the Owner of a safe deposit box, opens a safe deposit box presumed abandoned under

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Section 35-12-22(4), Code of Ala. 1975, as amended, it must be opened in the presence of at least two employees of the Holder, its Contents immediately inventoried, and an inventory sheet completed.

(2) Each item of Contents and, to the extent available, the name and social security number or federal employer tax identification number of the Owner of the Contents must be listed on the inventory sheet.

(3) A completed inventory sheet must be included in each envelope or other container containing Contents. The safe deposit box number, the name of the person in whose name the box was rented, and the name of the reporting/remitting institution must be listed on each inventory sheet. The inventory sheet should be completed using the guidelines listed below, and using the following five categories to identify the Contents:

(a) Cash: Coins and currency should be listed by denomination. Checks should not be converted into actual cash. No item of Contents may be converted, substituted, or exchanged.

(b) Securities: Securities include, by way of example, stock certificates, government bonds, and interest coupons. The description of securities-related Contents must include the registered Owner's name, issuing company, certificate numbers and number of shares.

(c) Firearms and controlled substances: If Contents include firearms or property not visually identifiable as a non-controlled substance, local law enforcement officials must be contacted immediately.

If the Contents include a firearm, the law enforcement official must unload the firearm and physically inspect the firearm to ensure that it is unloaded. After physical inspection by the law enforcement official, the firearm must be identified on the inventory sheet by type, model, brand name, and serial number and sent to the State Treasurer's Office in the normal course.

If the Contents include property not visually identifiable as a non-controlled substance, the law enforcement official may be allowed to take sufficient samples of the substance as that official deems necessary for testing to determine whether the substance is or is not a controlled substance. The official must verify in writing the amount of the substance taken, and this written verification must be placed in the contained with the remaining Contents. In the event the substance is found to be a controlled substance, the official is

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to confiscate the substance. If this occurs, the Holder must notify the State Treasurer's Office of the confiscation in writing and include a copy of the written notice with the inventory sheet for the respective safe deposit box.

(d) Papers: Wills, deeds, insurance policies, and other documents must be described on the inventory sheets. The description must include the name of the maker of a will and the names of the grantor and grantee of a deed. The description of an insurance policy must include the name of the issuing insurance company, the policy number, and the names of the policy's insured and beneficiary.

(e) Other Valuables: Valuables includes all types of Contents not described in the other four categories. Jewelry and loose stones should be described in terms of color (e.g., Ring, gold-tone with blue stone).

(4) The complete Contents of a safe deposit box must be remitted to the State Treasurer's Office intact. Coins and currency found in the box shall not be converted, substituted, or exchanged.

(5) The Contents of each box must be packaged separately with a copy of its inventory sheet in individual envelopes or other sealed container. The following information must then be clearly marked on the outside of each such envelope or container:

(a) the complete name of the person in whose name the box was rented,

(b) the safe deposit box number,

(c) the name and return address of the reporting/remitting institution, and

(d) the report year.

(6) The envelope or container should then be clearly marked "Deliver Unopened" and then sealed for safekeeping until delivered to the Owner or the State Treasurer's Office.

(7) In the event it becomes necessary for a Holder to reopen a sealed envelope or container, the same procedures for opening a safe deposit box and handling, inventorying, and sealing its Contents must be followed, except that law enforcement officials need not be contacted with regard to firearms which have already been checked pursuant to the Uniform

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Act, and the reason for the reopening must be stated on the inventory sheet.

(b) Reporting Safekeeping Items

(1) Safekeeping Items shall be reported for the specified dormancy period as provided under section 35-12-22(4), Code of Ala. 1975, as amended, from the date on which the lease or rental period expired or the property has been unclaimed/abandoned by the Owner.

(2) The Owner information and a detailed inventory shall be reported on forms supplied by the State Treasurer's Office for that purpose.

(3) A copy of each inventory form must be attached to the report.

(c) Remitting Safekeeping Items

(1) Safekeeping Items must be delivered to the State Treasurer's Office by hand deliver registered or certified mail. Any payments for other accounts shall not be included with the safekeeping items but must be mailed in an envelope or other container which is separate from the envelope or other container holding the items.

(2) All property presumed abandoned under Section 35-12-22(4), Code of Ala. 1975, as amended, shall be delivered to the State Treasurer's Office, Unclaimed Property Division.

(3) A receipt will be signed for the unopened package upon delivery to the State Treasurer's Office and forwarded to the Holder within five (5) working days.

Author: Jonathan H. Cooner, General Counsel, State Treasurer's Office

Statutory Authority: Code of Ala. 1975, §§35-12-31 and 35-12-46.

History: New Rule: Filed January 29, 1997; effective March 5, 1997.

892-2-1-.09

Release Of Information.

(a) Once property is Presumed Abandoned under the Uniform Act, information concerning the property or its Owner immediately becomes confidential such that the Holder may disclose it only to the following people:

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- (1) the Owner;
- (2) the Owner's legal heir or court-appointed representative;
- (3) any other representative of the Owner who holds both the Owner's power of attorney and a letter of non-revocation of the power of attorney which is not less than thirty days old on the date it is received by the Treasurer's Office;
- (4) the State Treasurer's Office; or
- (5) any law enforcement agency or other person pursuant to lawful subpoena, summons, warrant or court order, or to any state or federal governmental agency or department which has regulatory or supervisory authority over the Holder.

(b) Holders are prohibited by law from entering into any agreement or transaction with anyone other than the State Treasurer if the agreement or transaction might result in information regarding Abandoned or Unclaimed Property or Owners being released to someone other than the State Treasurer or respective Owner and if an Owner's interest in property would be diminished as a result.

(c) Persons who are neither Holders nor Owners are prohibited by law from entering with Holders or Owners into any agreement or transaction which might result in information regarding Abandoned or Unclaimed Property or Owners being released to someone other than the State Treasurer or the Owner if an Owner's interest in property would be diminished as a result.

(d) Any breach of confidentiality may result in civil or criminal liability under Section 35-12-46, Code of Ala. 1975, as amended.

Author: Jonathan H. Cooner, General Counsel, State Treasurer's Office

Statutory Authority: Code of Ala. 1975, §§35-12-21, 35-12-40 and 35-12-46.

History: **New Rule:** Filed January 29, 1997; effective March 5, 1997.

892-2-1-.10

Claims And Payment Thereof.

- (a) Any Owner, legal heir of an Owner, or court-appointed representative of an Owner, claiming an interest

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in any property delivered to the State Treasurer pursuant to the Uniform Act may file a claim.

(b) A claim submitted by anyone other than the Owner must be accompanied by certified proof of the claimant's legal right to represent the Owner in filing the claim. Upon the claimant's submission of such certification, the State Treasurer's office will proceed to process the claim. Any payment on a claim will only be made to the Owner.

Author: Jonathan H. Cooner, General Counsel, State Treasurer's Office

Statutory Authority: Code of Ala. 1975, Sections 35-12-21, 35-12-40 and 35-12-46.

History: **New Rule:** Filed January 29, 1997; effective March 5, 1997.

STATE TREASURER'S OFFICE
UNCLAIMED PROPERTY DIVISION
ADMINISTRATIVE CODE

CHAPTER 892-2-1 NEW CHAPTER
UNCLAIMED PROPERTY DIVISION

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892-2-1-.01 Purpose.

These rules establish general instructions and guidelines for the administration of the Alabama Unclaimed Property Program and requirements specific to businesses and the general public as mandated by law. Holder reporting requirements and Apparent Owner or Claimant claim requirements are also governed by the Uniform Disposition of Unclaimed Property Act of 2004, Section 35-12-70, et seq., Code of Alabama 1975, as amended.

Author: Ralph Ainsworth, Unclaimed Property Division, Office of State Treasurer

Statutory Authority: Sections 35-12-70, et seq. Code of Alabama, 1975, as amended.

History: New Rule: Filed October 31, 2014;

892-2-1-.02 Definitions.

- (1) "Abandoned or Unclaimed Property" means any property which is presumed abandoned under the Act.
- (2) "Act" means the State of Alabama Uniform Disposition of Unclaimed Property Act of 2004, Sections 35-12-70 through and including 35-12-96, Code of Alabama, 1975, as amended.
- (3) "Apparent Owner" or "Claimant" means the individual(s) signing and submitting the claim form and supporting documentation for recovery of unclaimed property.
- (4) "Contents" means any and all property found within a safe deposit box presumed abandoned and reportable to the Treasurer's Office under the Act.
- (5) "Dormancy" means inactivity or lack of owner contact for a prescribed time period as specified in the Act.

(6) "Holder" means a person, as defined in the Act, in possession of property presumed abandoned under the terms of the Act.

(7) "Treasurer's Office" means the office of the State Treasurer for the State of Alabama.

Author: Ralph Ainsworth, Unclaimed Property Division, Office of State Treasurer
Statutory Authority: Sections 35-12-70, et seq. Code of Alabama, 1975, as amended.
History: New Rule Filed: October 31, 2014;

892-2-1-.03 Holder Reporting: Filing Annual Reports.

(1) Holder reports annually to Treasurer's Office on or before November 1st.

(2) If the Holder is requesting a filing extension or exception to electronically filing the report, or other matter, the request must be in writing to the Treasurer's Office at least 15 days prior to November 1st. This request should include the following:

- (a) Purpose of the request;
- (b) Specifically state the extension period and/or exception requested;
- (c) Provide reason for the request.

(3) The reporting file standard format is available on the website and must be used unless approved by the Treasurer's Office.

(4) Incomplete or unbalanced reports will be returned to the Holder within one year of receipt.

(5) Individual items less than fifty dollars (\$50) may be aggregated, except recurring payments such as dividend, royalties, annuities, and similar continuous payments. Owner detail information should be included with the aggregated report.

(6) A Holder that has reportable Abandoned Property from a previous year and has not reported the property may file a Voluntary Disclosure Agreement. This voluntary filing will enable the Holder to report without incurring penalties.

(7) Worthless securities declared as such by the company should not be remitted as Unclaimed Property. Worthless securities can include stocks or bonds that are either publicly traded or privately held.

Author: Ralph Ainsworth, Unclaimed Property Division, Office of State Treasurer
Statutory Authority: Sections 35-12-72, 35-12-76 thru 35-12-77, and 35-12-86, 35-12-89, and 35-12-92, et seq. Code of Alabama, 1975, as amended.
History: New Rule: Filed October 31, 2014;

892-2-1-.04 Holder Reporting: Safe Deposit Box Contents.

(1) Prior to shipping Contents to the Treasurer's Office, the Holder shall provide a report including an estimated time of delivery of the Contents, the number of shipping boxes, shipping confirmation/tracking number, if applicable, and the Content listing. The report must be submitted electronically prior to delivery of Contents.

(2) Each owner's Contents should be individually packaged and adequately sealed by the Holder and include a listing of the Contents.

(3) Remittance of Contents must be made by registered mail, certified mail, or physical delivery. Physical delivery must be scheduled with the Treasurer's Office prior to delivery.

(4) All United States currency and coins, except those identified in Rule 92-2-1-.05 (1), shall be deposited by the Holder at the time of inventory and electronically remitted to the Treasurer's Office. The items must be itemized in the Holder report and noted that it was deposited by the Holder.

(5) Mutilated currency should be handled in the normal course of business through a financial institution and the Bureau of Engraving and Printing. Once mutilated currency is exchanged for good currency, it should be included in the Holder's report. Mutilated currency should not be sent to the Treasurer's Office.

Author: Ralph Ainsworth, Unclaimed Property Division, Office of State Treasurer

Statutory Authority: Sections 35-12-72, 35-12-76 thru 35-12-77, and 35-12-79, et seq. Code of Alabama, 1975, as amended.

History: New Rule: Filed October 31, 2014;

892-2-1-.05 Public Auction.

(1) United States coin and currency items to be auctioned include, but not limited to:

(a) Currency in the form of coin or paper received in booklets, proof sets, collectable holders, mint set, or other presentation packaging;

(b) Coin currency with a date of 1971 or earlier;

(c) Paper currency with a date of 1963 or earlier.

(2) Military items will not be auctioned. Military items include, but are not limited to, US military honors, awards, medals, discharge papers, or other symbols of U.S. military service.

(3) The Treasurer's Office may engage a professional auction company to conduct periodic online or onsite auction of Abandoned Property. A purchaser of Abandoned Property through an auction sale takes the property free of all claims of the Apparent Owner and subject to the buyer's agreement with the auction company. The purchaser's name is not public information and will not be released.

Author: Ralph Ainsworth, Unclaimed Property Division, Office of State Treasurer

Statutory Authority: Sections 35-12-80, et seq. Code of Alabama, 1975, as amended.

History: New Rule: Filed October 31, 2014;

892-2-1-.06 Confidentiality of Reports, Records, and Files.

(1) Any request for information, request for proposal, or other document that contains confidential, trade secrets or proprietary commercial information must be conspicuously marked as containing confidential information. The burden is on the one asserting the trade secret to show that the information sought to be protected is not subject to public disclosure under Alabama law.

(2) The owner of any confidential information shall indemnify and hold the State of Alabama, Treasurer's Office, its agents, officers, and employees harmless from all costs or expenses, including but not limited to, attorney fees and expenses related to litigation concerning disclosure of said information and documents.

(3) Information on the Treasurer's Office unclaimed property database is not available for public purchase or preview. Public database information is available on the Treasurer's website.

Author: Ralph Ainsworth, Unclaimed Property Division, Office of State Treasurer

Statutory Authority: Sections 35-12-89, and 35-12-94, et seq. Code of Alabama, 1975, as amended.
History: New Rule: Filed October 31, 2014;

892-2-1-.07 **Claim Form, Affidavits and Related Forms.**

(1) Only Treasurer's Office approved affidavits, agreements, powers of attorney, authorization forms, releases, claim forms, templates or other related documents will be admissible as part of the Unclaimed Property claim process, unless specifically authorized by the Treasurer's Office. Altering any of the forms and documents will be cause for denial of a claim.

(2) All forms and related documents are available on the Treasurer's website www.treasury.alabama.gov.

(3) All documentation and reporting must be in English.

Author: Ralph Ainsworth, Unclaimed Property Division, Office of State Treasurer

Statutory Authority: Sections 35-12-79, and 35-12-82 thru 35-12-84, et seq. Code of Alabama, 1975, as amended.

History: New Rule: Filed October 31, 2014;

892-2-1-.08 **Claim Process.**

(1) The Treasurer's Office, in its sole discretion, shall determine if the Claimant has established his or her entitlement to the Abandoned Property by a preponderance of the evidence.

(2) The aggregate Abandoned Property value must not exceed \$3,000 to be eligible to be claimed by an apparent heir of an intestate claim by affidavit.

(3) The aggregate Abandoned Property value must not exceed \$300 to be eligible to be claimed by the Apparent Owner without proof of address.

(4) Payment to estates of decedents shall be made payable to the estate of the decedent/reported owner. Small estate claims may be payable to the Claimant if all required documentation is presented.

(5) A garnishment/levy proceeding against the State Treasury is barred by sovereign immunity. A garnishment is a suit against the state and a result favorable to plaintiff would directly affect a contract or property right of the state. No claims will be paid as a result of garnishment/levy proceedings.

Author: Ralph Ainsworth, Unclaimed Property Division, Office of State Treasurer

Statutory Authority: Sections 35-12-82 thru 35-12-85, et seq. Code of Alabama, 1975, as amended.

History: New Rule: Filed October 31, 2014;

892-2-1-.09 **Responsibilities of Claimant.**

(1) A Claimant shall be responsible for providing all requested documentation to establish legal entitlement to the Unclaimed Property. The burden shall be upon the Claimant to fully satisfy claim requirements.

(2) Claimant must respond to a request for additional information within 90 days of notification. If additional information is not provided, claim is deemed denied because of insufficient evidence supporting ownership of the property. In such cases, the date of denial shall be 90 days following the date of notification that additional information is required.

(3) If a claim is denied by the Treasurer's Office, or the claim has not been acted upon within 120 days after its filing, the Claimant may bring an action in the Circuit Court of Montgomery County,

Alabama within 90 days of the date of denial or within 120 days of filing the claim if no action has been taken by the Treasurer's Office.

(4) Claim documentation for denied claims will be retained for one year following the date of denial. A new claim or additional documentation proving entitlement to the property can be filed at any time after the original claim was denied.

Author: Ralph Ainsworth, Unclaimed Property Division, Office of State Treasurer

Statutory Authority: Sections 35-12-82 thru 35-12-85, et seq. Code of Alabama, 1975, as amended.

History: New Rule: Filed October 31, 2014;

892-2-1-.10 Disposition of Property.

(1) Marketable securities delivered to the Treasurer's Office will be sold upon receipt at prices prevailing at the time of sale.

(2) At the Treasurer's discretion, the sale of stock may be suspended in the event of a significant economic downturn and decline in economic activity that results in a nationwide recession. Upon receipt of the Bureau of Economic Analysis of the US Department of Commerce ("Bureau") report showing two consecutive quarters of decline in the real gross domestic product (GDP), stock sales may be suspended. Upon receipt of the Bureau's report showing two quarters of positive growth in GDP, the Treasurer's Office may resume the sale of stock.

(3) Prior to public auction, Contents will be held for a minimum of one year from the date of the attempted notification by the Treasurer's Office to the reported owner.

(4) The Treasurer may allow property not available for public auction to be displayed by the Alabama Historical Commission, Department of Archives and History, or similar state organization, if the request is made in writing by the organization and in its opinion, the property has historical, artistic or literary value worthy of preservation.

(5) If the Treasurer determines that property delivered to the Unclaimed Property Division has no substantial commercial value, the property may be destroyed or otherwise disposed of at any time.

Author: Ralph Ainsworth, Unclaimed Property Division, Office of State Treasurer

Statutory Authority: Sections 35-12-80, and 35-12-87, et seq. Code of Alabama, 1975, as amended.

History: New Rule: Filed October 31, 2014;

892-2-1-.11 Responsibilities of the Holder.

It shall be the responsibility of the Holder:

- (a) to determine Abandoned Property subject to the Act, and dormancy reporting timelines;
- (b) to determine state custody of each property;
- (c) to report and remit Abandoned Property to the Treasurer's Office by the reporting deadline, including all owner identifying information available in the Holder's files, and;
- (d) to perform due diligence and written notice to the Apparent Owner as required by the Act prior to remitting property to the Treasurer's Office.

Author: Ralph Ainsworth, Unclaimed Property Division, Office of State Treasurer

Statutory Authority: Sections 35-12-72, and 35-12-76 thru 35-12-77, et seq. Code of Alabama, 1975, as amended.

History: New Rule: Filed October 31, 2014;